and 27th April, so it was before the last date of its warrant; which made it not only null, but false, and gave preference to Braco's wadset, which was confirmed betwixt the first and the second date of the charter; for it seems, when the Bishop signed on the last of March, there were few of his chapter present, and that occasioned it to have two dates. And the Lords found it was *actus incompletus et inchoatus* till the subscription of the whole was obtained; and that the last date was the *ultima manus; et nil putamus factum quamdiu quid restat agendum.* And, though it was offered to be proven that a sufficient number of the chapter signed with the Bishop before the taking of the seasine, yet the Lords preferred Braco's confirmation; because the seasine was prior to the charter's last date, its warrant. *Vol. I. Page* 669.

1695. *February* 15. The VISCOUNTESS of FRENDRAUGHT and MORISON of BOGNY *against* DAVID GREGORY of KINNAIRDY.

MERSINGTON reported the Viscountess of Frendraught, and Morison of Bogny, now her husband, against David Gregory of Kinnairdy, for declaring their right, by tolerance, in his moss; and to refund the damage arising by his disturbing them; and to discharge him to molest her during her lifetime. ALLEGED,—The tolerance was gratuitous, and for sixteen years, and now expired. The Lords, having read it, found the sixteen years were not restrictive of the first clause, giving it during her lifetime, but related to the son, for sixteen years after his entry. Then ALLEGED,—It bore an irritancy that she should lose the tolerance if her tenants spoiled his grass, &c.; and offered to prove it. ANSWERED,—1*mo.* He must raise a process; 2*do.* He should have intimated it.

The Lords found it relevant, *first*, to compense the bygone damages; and, *next*, to annul the tolerance in time coming, without necessity of putting him to a new process. *Vol. I. Page* 669.

1695. *February* 15. MACCULLOCH *against* SIR JOHN COCHRAN.

PHILIPHAUGH reported Macculloch against Sir John Cochran, for the price of 100 bolls of meal bought from him. ALLEGED,—I bought it from you, not as your own, but as factor for Sir George Campbell of Cesnock, and as his victual; and he owes me the equivalent sum. ANSWERED,—By your letter you bid me come and receive the money. But, seeing it was clear he bought it as Cesnock's meal, the Lords sustained the compensation. *Vol. I. Page* 670.

1695. *February* 15. MR DAVID GOODWILLY *against* SKEEN of HALYEARDS.

PHILIPHAUGH reported Mr David Goodwilly, schoolmaster at Strathmigle,